

Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in production agriculture or for use in State or Federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL).

August 14, 2001

Dear Xxxxx:

This letter is in response to your letter received by our office on July 26, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Although we have furnished BUSINESS with copies of our Certificate of Registration and of the letter from you, July 15, 1988, they continue to charge tax on purchases of repair parts for our mowers. Tires, tubes, spark plugs and mufflers, because their computers do not them as repair parts for farm equipment. Also we use two small trailers behind a garden tractor when spraying herbicide or insecticide. The tires on these trailers are the size used on camping trailers and would not show as farm equipment use.

These things we can purchase without tax in CITY2, but we can make four trips to CITY1 at cost of one trip to CITY2.

In the letter of PERSON, he speaks of the purchase of mowers, but does not mention repair parts.

#### **DEPARTMENT'S RESPONSE:**

For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.305, which is the regulation for Farm Machinery and Equipment. Retailers' Occupation Tax (sales tax) does not apply to sales of machinery and equipment used primarily in production agriculture or for use in State or Federal agricultural programs. Persons engaged in the business of growing Christmas trees can claim the exemption on their purchases of qualifying items used in an exempt manner. No transaction is exempt on the basis of the farm machinery and equipment exemption unless a certification is provided by the purchaser containing the information required by Section 130.305(m) of the Department's rules.

Machinery and equipment that is used both in qualifying and non-qualifying activities must be used primarily in a qualifying activity before the exemption has application. Production agriculture, with respect to crops, is limited to activities necessary in tilling the soil, planting, irrigating, cultivating, applying herbicide, insecticide or fertilizer, harvesting and drying crops. Activities such as clearing of land, mowing of fence rows, creation of ponds or drainage facilities are not included, nor are the operations involved in the storing or transporting of crops and produce. See Section 130.305(f).

Farm machinery would include tractors, combines, balers, irrigation equipment, cattle and poultry feeders. A rotary mower which would not qualify for exemption if used to mow ditches or fence rows, would qualify for exemption if primarily used to mow crops or ground cover grown on acreage in State or Federal agricultural programs. See Section 130.305(i). As noted in your 1988 letter from the Department regarding commercial tree farms, if the cutting of weeds enhances the ability of the trees to grow properly on the commercial tree farm, we believe that the exemption can be applied to mowers that are used primarily for that purpose.

Machinery means major mechanical machines or major components thereof contributing to the production agriculture process or used primarily in State or Federal agricultural programs. See Section 130.305(i). Please note that subsection (l) of Section 130.305 specifically provides that new or used repair or replacement parts, such as tires, tubes, spark plugs, and mufflers, can qualify for the exemption. See Section 130.305(l).

For your information, we have also enclosed a copy of 86 Ill. Adm. Code 130.1955, which is the regulation for Farm Chemicals. This regulation describes the kinds of farm chemicals that qualify for the exemption.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
Enc.